



An
Bord
Pleanála

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Inspector's Report ABP-312464-22

Development	Garden room and extension to shed
Location	75 Littlepace Drive, Dublin D15P3XH
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW21B/0158
Applicant	Richard & Mary Tucker
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First party vs. s48 contribution
Appellants	Richard and Mary Tucker
Observers	None
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site is in a suburban part of Dublin, c14 km north west of the city centre. It has a stated area of 290m². It is the curtilage of a semi-detached two-storey house that has a stated floor area of 103m².

2.0 Proposed Development

- 2.1. It is proposed to build a single storey structure at the back of the site that would extend an existing shed of 10.1m² by 23.9m². The extended part of the structure would contain office and exercise equipment for the use of the residents of the house.

3.0 Planning Authority Decision

3.1. Decision

The council decided to grant permission subject to 8 conditions, none of which significantly altered the proposed development.

Condition no. 2 stated that the proposed garden room/home office/shed would only be used incidentally to the house on the site, that it would not be used for human habitation or sold/leased independently of the main house, and that it would not be used for the carrying on of any trade or business.

Condition no. 8 requires the payment of €2,544 as a contribution under the scheme adopted by the council under section 48 of the planning act. The reason for the condition stated that such a payment would be reasonable but did not address which terms of the scheme it was applying.

3.2. Planning Authority Reports

3.3. Planning Reports

The report refers to the zoning of the site and provisions of the development plan that support domestic extensions. It states that the proposed garden room/home office would be ancillary to the residential use of the site and would not injure the

amenities of the area or of adjoining properties. A grant of permission was recommended subject to conditions including one applying a levy under the contribution scheme. The report did not discuss why such a condition was imposed.

4.0 Planning History

There is no relevant recent planning history on the site.

5.0 Development Plan

5.1. **Fingal County Development Plan 2017-2023** –The site is zoned residential under objective RS.

5.2. The development contribution scheme adopted by the council under section 48 of the planning act for the period 2021 to 2025 applies. Section 9a) of the scheme sets a levy of €93.21 per square metre of residential development, to be updated annually on 1st January in accordance with the SCSi Tender Price Index. Section 11 of the scheme sets of exemptions to the levy requirement. Section 11(i)(a) refers to the first 40 square metres of domestic extensions. Section 11(i)(s) refers to ‘Garages and Garden Sheds’, with the proviso that a contribution is payable if permission is subsequently granted to convert the structure to habitable accommodation.

5.3. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

The appeal was submitted under section 48(10)(b) of the planning act as the applicants consider that the terms of the adopted contribution scheme have not been properly applied in condition no 8 of the council’s decision as-

- The proposed garden room is basically an extension to an existing shed and would be used as a home office/gym. It would not be habitable

accommodation. It will be used solely in a manner incidental to the occupation of the main house on the site and will not be sold, let or otherwise transferred separately from that house. No trade or business will be carried on in the permitted structure. Therefore it would be a shed that is exempt from a levy under section 11(i)(s) of the adopted contribution scheme. Condition 8 of the council's decision should be omitted.

- The council planner's report appeared to consider the proposed development as a domestic extension, although it is not proposed to extend the house or the habitable accommodation on the site. However, if the proposed development were considered to be a domestic extension, it would be exempt under section 11(i)(a) of the scheme because the floor area of the proposed structure is less than 40m².

6.2. Planning Authority's Response

The council's response stated that condition no. 8 its decision should be included in the board's determination, without further elaboration.

On the 8th March 2022 the board requested that the council provide a breakdown of its calculation of the contribution. The council's response stated that there was no provision in the scheme to exempt a development of this type. The required contribution is €2,544 based on a rate of €106.46 per m² by 23.9m².

6.3. Further Response

In response to the council's response the appellants restated their grounds for contending that the proposed development came within the exemption for sheds in section 11(i)(s) of the contribution scheme.

7.0 Assessment

- 7.1. The proposed development is a relatively small single storey structure to the rear of a suburban house. It would not contain any bedrooms, bathrooms, kitchens or living rooms, but would accommodate equipment allowing the occupants of the main house to exercise and carry out some work but not a trade or business. These

characteristics are evident from the description of development in the application and the accompanying drawings. They are reinforced by condition 2 of the planning authority's decision. These characteristics mean that the proposed development would be encompassed by the terms 'garden shed' or 'garage' when used to refer to a structure on the curtilage of a house in technical or colloquial discourse, notwithstanding the use of the neologism 'garden room' in the application documents. I agree with the position of the appellants on this topic. The council's submissions have not provided any persuasive grounds to support its contrary position.

- 7.2. The proposed structure will have the form and function of a garden shed or garage. It will be a garden shed or garage. So it should be exempt from a section 48 levy because section 11(i)(s) of the contribution scheme says that garages and garden sheds are exempt from those levies.

8.0 Recommendation

- 8.1. I recommend that board direct the planning authority to omit condition no. 8 of its decision.

9.0 Reasons and Considerations

Having regard to the scale, location and use of the proposed development, as set out in the plans and particulars submitted with the application and condition no. 2 of the planning authority's decision, including the absence of any habitable accommodation, it is considered that it would constitute a garage or garden shed that is exempt from the requirement to pay a levy under the Fingal County Council Development Contribution Scheme by virtue of section 11(i)(s) of that scheme.

Stephen J. O'Sullivan

Planning Inspector

22nd April 2022